IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6306 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

THAKORE MADHAJI CHANAJI

Versus

SECRETARY

Appearance:

MR PK JANI for Petitioner

MS DS PANDIT, AGP for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.C.PATEL

Date of decision: 14/12/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. This is a petition under Article 227 of the Constitution of India though styled as one under Article 226 of the Constitution.

2. The petitioner herein challenges, at Annexure E to the petition, the order rejecting the petitioner's application for reference under Section 18 of the Land Acquisition Act.

3. It is not in dispute that the order is a Speaking Order and specifically assigns two reasons for rejecting the said reference application. Firstly, the order states that the reference application is not maintainable since the land holder - applicant has accepted the amount of compensation without protest. Secondly, the application is rejected since it was beyond limitation.

4. The fact that the application was beyond limitation is not in controversy, particularly in view of the fact that the petitioner himself had, alongwith the reference application, preferred an application for condonation of delay. His condonation application is at Annexure D to the petition.

5. This petition was filed apparently with a view to take the benefit of the case-law as it prevailed then, i.e. to say, in the year 1990, whereby it was contended by the claimants that the Collector while entertaining the application under Section 18 of the Act and/or the Reference Court while dealing with the reference application under Section 18, had the power to condone the delay.

6. As the law prevails today, both these contentions are not sustainable. It is well-settled that the Collector has no power to condone the delay when processing the application received by him under Section 18, for transmission of the same to the Reference Court. Similarly, even the Reference Court has no power to condone the delay, if it finds that the reference application being dealt with by it on merits, is filed beyond limitation.

7. In the premises aforesaid and in view of the correct law laid down by the Supreme Court, no relief can be granted to the petitioner in such a petition.

8. This petition is therefore rejected and Rule is discharged with no order as to costs.

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